

Attorney Docket No. 09793070-0439

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Patent Application of

Estes *et al.*

Application No. 10/027,160

Filed: December 20, 2001

For: NON-AQUEOUS WASHING
APPARATUS AND METHOD

) Group Art Unit 1751

) Examiner: Gregory E. Webb

I hereby certify that this document is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 17, 2006.

Daniel W. Celander

Commissioner for Patents
Alexandria, VA 22313-1450

TRANSMITTAL OF APPELLANTS' BRIEF ON APPEAL

Dear Sir:

Appellants submit, in triplicate, Appellants' Brief on Appeal under 37 C.F.R. § 41.37 in support of the Notice of Appeal filed on 14 November 2005. Appellants have paid the amount of \$500 for the appeal brief fee as required by 37 C.F.R. § 41.20(b)(2) for an appeal brief filed previously on May 24, 2005. Because the Examiner re-opened prosecution in the above-identified application by mailing a non-final Official Action on July 18, 2005, which resulted in termination of the Appellants' previous Appeal, Appellants believe that no additional fees are due for filing the instant appeal brief.

The Commissioner is hereby authorized to credit overpayments or to charge any deficiency in a required fee to Deposit Account No. 19-3140. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Dated: 01-17-2006

By: *Daniel W. Celander*
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Samuel W. Calender

Commissioner for Patents
Alexandria, VA 22313-1450

APPELLANTS' BRIEF ON APPEAL

Dear Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellants submit this Brief in support of the Appeal for the above-referenced application.

I. REAL PARTY IN INTEREST

The real party in interest in the present appeal is the Assignee, Whirlpool Corporation, a corporation of the state of Delaware. The Assignment was recorded in the U.S. Patent and Trademark Office.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals and no related interferences.

III. STATUS OF CLAIMS

Claims 1-78 and 82 were canceled. Claims 79-81 and 83-88 stand rejected, of which claims 79, 86, 87, and 88 are independent. The rejections of claims 79-81 and 83-88 are appealed.

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IV. STATUS OF AMENDMENTS

A Request For Reconsideration After Final was filed on 21 January 2005, wherein no amendments of the claims were made. An Advisory Action was mailed 9 March 2005, wherein the Request For Reconsideration After Final had been considered but rejected, because the request did not place the application in condition for allowance. A Notice of Appeal was filed on March 28, 2005 and a Brief on Appeal was filed May 20, 2005. An Official Action (not made Final) was mailed July 18, 2005 which re-opened prosecution and offered new grounds for rejection of claims 79-81 and 83-88. There are no pending amendments filed in response to the Official Action dated July 18, 2005.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention relates to compositions employed in the home for laundering clothing and fabrics. In particular, these compositions represent novel formulations for home laundering of a fabric load using a wash liquor that comprises a combination of a substantially inert, non-reactive working fluid and at least one washing additive. Because the working fluid is substantially inert and non-reactive (i.e., it displays no deterative properties), the washing additive represents the actual cleaning agent of the wash liquor. The washing additive may comprise a co-solvent, a performance enhancer, or both, wherein the co-solvent and performance enhancer each has deterative properties that are required to remove particulates, film soils, and stains from the fabric or that assist in the removal of particulates, film soils, and stains from the fabric. The sole purpose of the working fluid is to provide a medium wherein the co-solvents, performance enhancers, and other additives are brought together in a single- or multi-phase mixture to promote cleaning of the clothing and fabrics. (See Specification at page 1, ll. 1-20 and page 11, ll. 1-18.)

In the context of Applicants' disclosure and claims that are drawn to non-aqueous washing methods, the non-aqueous bulk fluid that represents "working fluid" is non-reactive in the sense that the bulk fluid has no deterative properties as commonly known and understood by those skilled in the art.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether the rejections of claims 79-81 and 83-88 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement are sustainable on appeal.

B. Whether the rejections of claims 79-81 and 83-88 under 35 U.S.C. §§ 102(b) or 102(e) as being anticipated by France (U.S. Patent No. 6811811), Behr (U.S. Patent Nos. 6653512, 6552090, 6743262, and 6149980), Radomyselski (U.S. Patent No. 6746617), Severns et al. (U.S. Patent Nos. 6670317, 5668102, 6898951, and 6691536), Scheper et al. (U.S. Patent No. 6890892), Scheper (U.S. Patent No. 6734153) Deak et al. (U.S. Patent Nos. 6828295 and 6894014), Login et al. (U.S. Patent Nos. 5093031 and 5294644), De Jager (U.S. Patent No. 5269958), Wilde (U.S. Patent No. 6860998), Burd et al. (U.S. Patent No. 6060108), Nakamura et al. (U.S. Patent Nos. 5505985 and 5427858), and Balliett (U.S. Patent No. 5676005) are sustainable on appeal.

VII. ARGUMENT

A. Whether the rejections of claims 79-81 and 83-88 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement are sustainable on appeal.

1. Applicable Law

Before any analysis of enablement can occur, it is necessary for the examiner to construe the claims. For terms that are not well-known in the art, or for terms that could have more than one meaning, it is necessary that the examiner select the definition that he/she intends to use when examining the application, based on his/her understanding of what applicant intends it to

mean, and explicitly set forth the meaning of the term and the scope of the claim when writing an Office action. Genentech v. Wellcome Foundation, 29 F.3d 1555, 1563-64, 31 USPQ2d 1161, 1167-68 (Fed. Cir. 1994).

The examiner has the initial burden to establish a reasonable basis to question the enablement provided for the claimed invention. In re Wright, 999 F.2d 1557, 1562, 27 USPQ2d 1510, 1513 (Fed. Cir. 1993). A specification disclosure which contains a teaching of the manner and process of making and using an invention in terms which correspond in scope to those used in describing and defining the subject matter sought to be patented must be taken as being in compliance with the enablement requirement of 35 U.S.C. 112, first paragraph, unless there is a sufficient reason to doubt the objective truth of the statements contained therein which must be relied on for enabling support. Assuming that sufficient reason for such doubt exists, a rejection for failure to teach how to make and/or use will be proper on that basis. In re Marzocchi, 439 F.2d 220, 224, 169 USPQ 367, 370 (CCPA 1971). However, the minimal requirement is for the examiner to give sufficient, particularized reasons for the uncertainty of the enablement. Id. A prima facie case of lack of enablement requires that the examiner provide specific technical reasons as part of specific findings of fact, supported by the evidence, and then drawing conclusions based on these findings of fact. See MPEP § 2164.04.

2. The Examiner's rejection

In the Official Action dated July 18, 2005, the Examiner rejected claims 79-81 and 83-88 under 35 U.S.C. § 112, paragraph, as failing to comply with the enablement requirement. The Examiner recited the following reason to support his rejections of the claims:

The applicant's [sic] specification is considerably vague concerning which compounds meet the functional limitations described in the instant independent claims. The applicant's [sic] specification recites only one compounds [sic] suitable for the invention and recites classes of compounds such as fluoroethers. It is thus not clear if the applicant's [sic] specification has provided the requisite details to enable one of ordinary skill in the art to generate such compositions

beyond the one preferred embodiment. The applicant's [sic] claims however are potentially directed to millions of compounds.

3. The Argument

(i) Claims 79-81 and 83-87:

For the purposes of this ground of rejection, the claims 79-81 and 83-87 stand or fall together. Arguments as to the patentability of these rejected claims are presented as a single group.

a. Rejections of Claims 79-81 and 83-87 under 35 U.S.C. § 112, first paragraph are not sustainable because the Examiner has not construed the claims nor established a prima facie case for lack of enablement.

Claims 79-81 and 83-88 contain several terms that are defined in the Applicants' specification, which include the following: "working fluid," and "washing additive," and "fragrance." Before the Examiner would be able to recite sufficient reasons to question the specification's enablement of the claims, he needed to initially construe at least the aforementioned terms of the claims, which he has not done.

Even if one assumes that the Examiner's rejections of the claims are directed to the Applicants' disclosure of the claim limitation "working fluid," the Examiner's mere assertion that the Applicants' specification is vague and the Examiner's speculation that the specification's disclosure has not provided the requisite details to justify the scope of claims does not remotely satisfy the Examiner's burden with regard to establishing a prima facie case of lack of enablement. The Examiner did not provide any technical reasons, any specific findings of fact, nor any evidentiary support to justify his overarching conclusion that the Applicants' specification is not an enabling disclosure commensurate with the scope of the claims.

b. The Applicants' specification provides the requisite disclosure to enable one skilled in the art to make and use the invention with the scope of claims 79-81 and 83-87.

The Examiner has failed to consider the entirety of the specification for what it discloses with regard to enabling one skilled in the art to make and use the invention. In this regard, the specification discloses that fluoroinerts, hydrofluoroethers, perfluorohydrocarbons, and similarly fluorinated hydrocarbons can serve as working fluids of the present invention. See the specification at page 19, lines 1-11. Furthermore, the specification teaches that these working fluids are suitable due to their low surface tension, low vapor pressure, and high fluid density. Id. The specification discloses in particular that working fluid compounds have surface tensions typically range from 12 to 18 dynes/cm², as compared to 72 dynes/cm² for water; that they typically have a solubility in water ranging from 7 parts per million (ppm) to 13 ppm; that they typically have a viscosity in the range of 0.4 centistokes to 50 centistokes; and that they display low kauri-butanol (KB) values of 30 or less, which indicates that the compounds have little or no solvency. Id. Finally, the specification discloses with particularity those compounds that meet the working fluid limitation have little or no deterative effects, which also is consistent with working fluid compounds having little or no solvency. See Specification at page 11, lines 2-4, 8-10, and 13-19. Each of these chemical properties can be measured readily by one skilled in the art using appropriate instrumental methodology. In so doing, one skilled in the art would be apprised of those compounds that meet the chemical attributes of a "working fluid" having the limitations of being substantially non-reactive, non-aqueous, non-oleophilic, apolar, and having a KB value less than or equal to 30.

Thus, the Applicants' specification discloses to one skilled in the art how to make and use the invention with the scope set forth by claims 79-81 and 83-87. In fact, the Examiner agreed with the Applicants' representative during the interview conducted on October 27, 2005 that the Applicants' specification included adequate support to overcome the Examiner's initial

conclusion that the Applicants' specification lacked enablement. See IX. EVIDENCE APPENDIX, Interview Summary. The Appellants respectfully request that the Board reverse the Examiner's rejections of claims 79-81 and 83-87 under 35 U.S.C. § 112, first paragraph as lacking enablement.

(ii) Claim 88:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 88 is an independent claim, which recites a wash liquor composition comprising, among other limitations, a working fluid comprising a fluorine-containing compound represented by the specific formula $(CF_3(CF_2)_n)_3N$ where n is an integer from 4-20 and at least one washing additive comprising a fragrance.

The Examiner asserted that rejection of claim 88 under 35 U.S.C. § 112, first paragraph for lacking enablement was appropriate because "[i]t is thus not clear if the applicant's [sic] specification has provided the requisite details to enable one of ordinary skill in the art to generate such compounds beyond the preferred embodiment" in view of the fact that the applicants' claim is "potentially directed to millions of compounds."

Applicants maintain that claim 88 is directed to an extremely small number of compositions, wherein the working fluid is defined by one of seventeen homologs of a specific fluorohydrocarbon tertiary amine $((CF_3(CF_2)_n)_3N$ where n is an integer from 4-20), rather than to "millions of compounds" as alleged by the Examiner. Applicants' specification provides adequate disclosure of this small family of working fluid compounds that readily enables one skilled in the art how to make and use the composition of claim 88.

Thus, for these reasons and the Appellants' arguments set forth *supra*, Applicants respectfully request that the Board reverse the Examiner's rejection of claim 88 under 35 U.S.C. § 112, first paragraph as lacking enablement.

B. Whether the rejections of claims 79-81 and 83-88 under 35 U.S.C. §§ 102(b) or 102(e) as being anticipated by France (U.S. Patent No. 6811811), Behr (U.S. Patent Nos. 6653512, 6552090, 6743262, and 6149980), Radomyselski (U.S. Patent No. 6746617), Severns *et al.* (U.S. Patent Nos. 6670317, 5668102, 6898951, and 6691536), Scheper *et al.* (U.S. Patent No. 6890892), Scheper (U.S. Patent No. 6734153) Deak *et al.* (U.S. Patent Nos. 6828295 and 6894014), Login *et al.* (U.S. Patent Nos. 5093031 and 5294644), De Jager (U.S. Patent No. 5269958), Wilde (U.S. Patent No. 6860998), Burd *et al.* (U.S. Patent No. 6060108), Nakamura *et al.* (U.S. Patent Nos. 5505985 and 5427858), and Balliett (U.S. Patent No. 5676005) are sustainable on appeal.

1. Applicable Law

An anticipatory reference under 35 U.S.C. § 102 must satisfy two requirements. First, the reference must be prior art, i.e., it must be made available to the public prior to the effective filing date of the patent application to which the reference is being applied. Second, the reference must disclose, either expressly or inherently, each and every limitation set forth in the claim at issue. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

"In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. In re Rijckaert, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) See also In re Oelrich, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would

be so recognized by persons of ordinary skill. In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted).

The examiner bears the burden of establishing a prima facie case of anticipation. In re King, 801 F.2d 1324, 1327 (CCPA 1986); In re Wilder, 429 F.2d 447, 450 (CCPA 1970). If examination at the initial stage does not produce a prima facie case of unpatentability, then without more the applicant is entitled to a grant of the patent. In re Grabiak, 769 F.2d 729, 733 (Fed. Cir. 1985). Only if that burden is met, does the burden of going forward shift to the applicant. In re King, 801 F.2d at 1327; In re Wilder, 429 F.2d at 450. Once a prima facie case is established and rebuttal evidence is submitted, the ultimate question becomes whether, based upon the totality of the record, the examiner carried his burden of proof by a preponderance of the evidence. In re Oeticker, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

2. The Examiner's rejection

In the Official Action dated July 18, 2005, the Examiner rejected claims 79-81 and 83-88 under 35 U.S.C. § 102 (b) and (e) as being anticipated by twenty-two individual patent references. For each asserted reference, the Examiner stated without any technical explanation or reasoning that Applicants' claimed chemical properties of the working fluid being non-reactive, non-aqueous, non-oleophilic, and apolar and having a KB value less than 30 would inherent to the compounds of the asserted reference pending a showing to the contrary.

Furthermore, the Examiner stated that he would remove the Section 102 rejections if and only if Applicants provide "a signed declaration demonstrating beyond a shadow of a doubt" that the compounds disclosed in the asserted reference do not meet the chemical property limitations set forth in the claims.

3. Interview of October 27, 2005

In the Interview conducted with the Examiner on October 27, 2005, Applicants' representative discussed the impropriety of asserting references in support of a 102 rejection where the references do not qualify as prior art. In this regard, Applicants' representative provided evidence to the Examiner that supported a finding that fifteen of the twenty-two references were not prior art because each reference's earliest effective filing date was after the effective filing date of the Appellants' application. See IX. EVIDENCE APPENDIX, Interview Summary. While the Examiner agreed with Applicants' representative that the majority of the asserted references were not prior art, the Examiner has not issued an Official Action that withdraws the rejections of the claims based upon these references. Id.

4. The Argument

(a) Fifteen of the twenty-two asserted references are not prior art with respect to Appellants' application because each reference's earliest effective filing date is after the effective filing date accorded the Appellants' application.

The application under appeal, U.S. Patent Application Serial No. 10/027160, was filed on December 20, 2001 and is a divisional application of U.S. Patent Application Serial No. 09/520653, filed March 7, 2000, which is a divisional application of U.S. Patent Application Serial No. 09/038054, filed March 11, 1998, which claims priority under 35 U.S.C. § 120 to U.S. Patent Application Serial No. 60/045072, filed April 29, 1997. These applications share an identical specification. Thus, the effective filing date of the application under appeal is April 29, 1997.

Table 1 provides a listing of fifteen references that the Examiner has asserted as anticipatory references under Section 102 (b) or (e), along with the earliest effective filing date accorded each reference.

REFERENCE	AUTHOR	EARLIEST EFFECTIVE FILING DATE
US 6811811	France	8-15-2001
US 6653512	Behr	9-15-1997
US 6552090	Behr	9-15-1997
US 6743262	Behr	9-15-1997
US 6149980	Behr	9-15-1997
US 6746617	Radomyselski	9-10-2001
US 6670317	Severns <u>et al.</u>	6-05-2000
US 6890892	Scheper <u>et al.</u>	12-06-2001
US 6734153	Scheper	12-20-2001
US 6828295	Deak <u>et al.</u>	9-10-2001
US 6898951	Severns <u>et al.</u>	6-05-2000
US 6691536	Severns <u>et al.</u>	6-05-2000
US 6860998	Wilde	6-17-2002
US 6060108	Burd <u>et al.</u>	8-28-1998
US 6894014	Deak <u>et al.</u>	6-22-2001

Each of these references has an effective filing date after April 29, 1997, the effective filing date of the application under appeal. Thus, these references are not prior art under Section 102. Appellants respectfully request that the Board reverse the Examiner's rejections of claims 79-81 and 83-88 based upon these references.

(b) The Examiner has not met his burden with regard to establishing that Severns et al. (U.S. Patent No. 5668102) discloses, either expressly or inherently, each and every limitation of the claims.

Though the Severns et al. reference was cited on PTO Form 892 that was provided with the Official Action dated July 18, 2005, the Examiner failed to particularly point out how this reference disclosed each and every limitation of claim 79. Consequently, the Examiner failed to

meet his burden of establishing the prima facie case of anticipation of claims 79-81 and 83-88 by the Severns et al. reference. Thus, for this reason and the Appellants' arguments put forth infra, Applicants respectfully request that the Board reverse the Examiner's rejection of claims 79-81 and 83-88 as being anticipated by Severns et al.

(i) Claims 79 and 80:

For the purposes of this ground of rejection, these claims stand or fall together. Arguments as to the patentability of these claims are presented as a single group, wherein Applicants have selected claim 79 as the exemplary claim for the group.

Claim 79 is an independent claim. Claim 79 recites a wash liquor composition comprising a working fluid being substantially non-reactive, non-aqueous, non-oleophilic and apolar, and having a KB value less than or equal to 30 and at least one washing additive comprising a fragrance. Claim 79 further recites that the aforementioned components are pre-mixed prior to use in laundering.

(1) The Asserted Art:

The Severns et al. reference is directed to biodegradable fabric softener compositions combined with anionic or nonionic esters of non-allylic perfume alcohols. (1:13-16). The fabric softener compositions are disclosed as solid formulations or liquid formulations. (2:30-54) The formulations are disclosed as including a fabric softening compound, a perfume, an optional viscosity/dispersibility modifier and, in the case of liquid formulations, a liquid carrier. (6:13-67). The viscosity/dispersibility modifier is disclosed to include surfactants. (16:32-65).

(2) Severns et al. does not disclose a working fluid, as defined by Applicants' specification and claims.

Applicants define a "working fluid" with clear and unequivocal language: a working fluid is "a fluid that possesses no deterative properties," whereas a compound or fluid that has "deterative action" is one "that is required to remove particulates, film soils, and stains or that

assist in the removal of particulates, film soils, and stains.” *See* specification at page 11, lines 2-4, 8-10, and 13-18. Applicants unambiguously define “substantially non-reactive” as it modifies a working fluid and components thereof to mean “a non-solvent, non-deterative fluid that under ordinary or normal washing conditions, *e.g.*, at pressures of -1 to 50 atmospheres and temperatures of from about 10° to about 45° C, does not appreciably react with fibers of the fabric load being cleaned, the stains and soils on the fabric load, or the washing additives combined with the component to form the wash liquor.” *See* Specification at page 1, lines 9-15. Furthermore, Applicants characterize cleaning solvents as being different from the working fluid of their invention: “a solvent that is different from the IWF [working fluid] in that its sole purpose is to provide deterative properties not met by the performance enhancers will hereinafter be referred to as a co-solvent.” *Id.* at page 11, lines 13-15. A person of ordinary skill in the field would readily understand that this definition indicates that a non-reactive working fluid does not react with fabric fibers nor with stains and soils on the fabric. Therefore, a non-reactive working fluid, by definition, cannot perform any process that disrupts the chemical interaction between stains and soils on fabric fibers.

In Severns et al., the biodegradable fabric softener is disclosed as a cationic quaternary ammonium compound (2:30-67) and a “liquid carrier” is disclosed as being selected from the group consisting of water, C₁-C₄ monohydric alcohols, C₂-C₆ polyhydric alcohols, liquid polyalkylene glycols, and mixtures thereof. (3:12-16). The disclosed perfume compounds cannot simultaneously qualify as the working fluid of claim 79 because the perfume compounds of Severn et al., being cationic esters of an alcohol, are polar and water-soluble. The disclosed liquid carrier cannot qualify as a working fluid because it is either aqueous, water-soluble, or polar. At best, Severns et al. discloses a liquid carrier to include water, an alcohol, and a glycol. Thus, the Severns et al. reference fails to disclose or suggest the working fluid of claim 79.

Applicants respectfully request that the Board reverse the Examiner's rejection of claim 79 as being anticipated by Severns et al.

(ii) Claim 81:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 81 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 comprises a fluorine-containing compound selected from the group consisting of perfluorocarbons, hydrofluoroethers, fluorinated hydrocarbons, and fluoroinerts.

In addition to the arguments set forth *supra* for claim 79, Severns et al. does not disclose a fluorine-containing compound, let alone perfluorocarbons, hydrofluoroethers, fluorinated hydrocarbons, and fluoroinerts. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 81 as being anticipated by Severns et al.

(iii) Claim 83:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 83 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 comprises a liquid.

In addition to the arguments set forth supra for claims 79 and 80, Severns et al. does not disclose a liquid working fluid. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 83 as being anticipated by Severns et al.

(iv) Claim 84:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented

herein. Claim 84 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 possesses specific chemical properties, including: (1) a surface tension of less than or equal to 35 dynes/cm²; (2) an oil solvency greater than water without being oleophilic; (3) a solubility in water of less than about 10%; (4) a viscosity less than water under normal washing conditions; (5) a pH from about 6.0 to about 8.0; (6) a vapor pressure less than the vapor pressure of water; and (7) a flash point of greater than or equal to 145 °C.

In addition to the arguments set forth supra for claim 79, Severns et al. does not disclose specific chemical properties of any compounds with respect to surface tension, oil solvency, vapor pressure, or flash point. With regard to preferred pH range of the compositions, Severns et al. discloses the use of pH modifiers to adjust pH in the range of 2 to 5.0. (30:50-59). Thus, Severns et al. teaches away from a pH range from about 6.0 to about 8.0. Furthermore, the liquid carrier compounds disclosed by Severns et al. have a solubility in water that exceeds 10%. (3:12-16). Applicants respectfully request that the Board reverse the Examiner's rejection of claim 84 as being anticipated by Severns et al.

(iv) Claim 85:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 85 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 is a hydrofluoroether.

In addition to the arguments set forth supra for claim 79, Severns et al. does not disclose any fluorinated compound, including a hydrofluoroether. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 85 as being anticipated by Severns et al.

(iv) Claims 86 and 87:

For the purposes of this ground of rejection, these two independent claims stand or fall together. Arguments as to the patentability of these claims are presented herein, wherein Applicants have selected claim 86 as an exemplary claim for the group. Claim 86 requires, among other limitations, at least a working fluid, a fragrance and two different types of washing additives. The first washing additive is selected from the group consisting of a surfactant, enzyme, and bleach. The second washing additive is selected from the group consisting of ozone, an ultraviolet light absorber, and deodorizer.

In addition to the arguments set forth supra for claim 79 with regard to the limitation drawn to working fluid, Severns et al. does not disclose that washing additives comprise ozone, an ultraviolet light absorber, or a deodorizer. One skilled in the art would understand from Applicants' specification that a perfume represents an example of Applicants' fragrance, rather than a deodorizer. According to Applicants' specification, a deodorizer removes odors from a fabric. See Specification at page 17, lines 7-24. Perfumes, having by definition an odor or scent, would merely mask or conceal another odor rather than remove that odor. In a similar vein, Severns et al. does not disclose that its perfume possess deodorizing activities. Applicants respectfully request that the Board reverse the Examiner's rejection of this group of claims as being anticipated by Severns et al.

(iv) Claim 88:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 88 is an independent claim which requires, among other limitations, at least a working fluid comprising a fluorine-containing compound having the structure $(CF_3(CF_2)_n)_3N$, where n is an integer from 4 to 20.

The Severns et al. reference does not disclose the aforementioned fluorine-containing compound, let alone its inclusion in a wash liquor composition. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 88 as being anticipated by the Severns et al. reference.

(c) The Examiner has not met his burden with regard to establishing that Login et al. (U.S. Patent Nos. 5093031 and 5294644) disclose, either expressly or inherently, each and every limitation of the claims.

The two asserted Login et al. references are based upon the same specification; therefore, the Login et al. references will be cited jointly for disclosure of the relevant prior art with respect to the limitations of the claims under appeal.

(i) Claims 79, 80, 86, and 87:

For the purposes of this ground of rejection, these claims stand or fall together. Arguments as to the patentability of these claims are presented herein, wherein Applicants have selected claim 79 as an exemplary claim for the group.

Claim 79 is an independent claim. Claim 79 recites a wash liquor composition comprising a working fluid being substantially non-reactive, non-aqueous, non-oleophilic and apolar, and having a KB value less than or equal to 30 and at least one washing additive comprising a fragrance. Claim 79 further recites that the aforementioned components are pre-mixed prior to use in laundering.

(1) The Asserted Art:

The Login et al. references are directed to N-hydrocarbon substituted lactams that act as surfactants. (2:22-34). Lactams are included in the broader chemical class of compounds known as ketones. The disclosed lactam surfactants possess excellent spot, stain, and soil releasing properties; they have the ability to retain fragrances in perfumes; and they also display anti-stat, anti-block, and lubricant properties. (2:48-52) In the context of dry cleaning applications, the

Login et al. references disclose dry cleaning solvents as falling into two categories, the petroleum solvents and the halogenated solvents, which include Stoddard solvent, carbon tetrachloride, trichloroethylene, perchloroethylene, fluorinated hydrocarbons, 104F solvent, etc. (11:23-30). In this regard, the Login et al. references disclose that these solvents are satisfactory for the removal of fatty type soils, but not water soluble soils and stains. (11: 30-32) In this regard, Login et al. references disclose use of these solvent soluble lactams in conjunction with the aforementioned solvents to remove many water soluble spots and stains that would not be otherwise removed using the solvents alone. (11:30-35). The Login et al. references disclose that the lactams complex with odor causing components in human perspiration, resulting in minimizing or eliminating odor in clothing. (11:41-44).

(2) The Login et al. references do not disclose a working fluid, as defined by Applicants' specification and claims.

Applicants define a "working fluid" with clear and unequivocal language: a working fluid is "a fluid that possesses no deterative properties," whereas a compound or fluid that has "deterative action" is one "that is required to remove particulates, film soils, and stains or that assist in the removal of particulates, film soils, and stains." See Specification at page 11, lines 2-4, 8-10, and 13-18. Applicants unambiguously define "substantially non-reactive" as it modifies a working fluid and components thereof to mean "a non-solvent, non-deterative fluid that under ordinary or normal washing conditions, *e.g.*, at pressures of -1 to 50 atmospheres and temperatures of from about 10° to about 45° C, does not appreciably react with fibers of the fabric load being cleaned, the stains and soils on the fabric load, or the washing additives combined with the component to form the wash liquor." See Specification at page 1, lines 9-15. Furthermore, Applicants characterize cleaning solvents as being different from the working fluid of their invention: "a solvent that is different from the IWF [working fluid] in that its sole purpose is to provide deterative properties not met by the performance enhancers will hereinafter

be referred to as a co-solvent.” Id. at page 11, lines 13-15. A person of ordinary skill in the field would readily understand that this definition indicates that a non-reactive working fluid does not react with fabric fibers nor with stains and soils on the fabric. Therefore, a non-reactive working fluid, by definition, cannot perform any process that disrupts the chemical interaction between stains and soils on fabric fibers.

In the Login et al. references, the halogenated compounds conventionally used in dry cleaning formulations are specifically disclosed to act as solvents to remove certain water insoluble spots and stains. (11:30-33). Furthermore, the disclosed lactams are described as surfactants, as a water soluble spot and stain remover, and as a deodorizer. (11:30-44) Thus, neither the halogenated compounds, the lactams, nor any other compound disclosed by the Login et al. references qualify as a working fluid. At best, the Login et al. references disclose compounds that would represent the co-solvent or a washing additive within the meaning of Applicants’ specification. Thus, the Login et al. references fail to disclose or suggest the working fluid of claim 79.

Applicants respectfully request that the Board reverse the Examiner’s rejection of this group of claims as being anticipated by the Login et al. references.

(ii) Claim 81:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 81 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 comprises a fluorine-containing compound selected from the group consisting of perfluorocarbons, hydrofluoroethers, fluorinated hydrocarbons, and fluoroinerts.

In addition to the arguments set forth *supra* for claim 79, the Login et al. references do not disclose a fluorine-containing compound as being suitable for use as a working fluid, let alone perfluorocarbons, hydrofluoroethers, fluorinated hydrocarbons, and fluoroinerts that act as a working fluid. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 81 as being anticipated by the Login et al. references.

(iii) Claim 83:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 83 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 comprises a liquid.

In addition to the arguments set forth *supra* for claim 79, the Login et al. references do not disclose a liquid working fluid. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 83 as being anticipated by the Login et al. references.

(iv) Claim 84:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 84 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 possesses specific chemical properties, including: (1) a surface tension of less than or equal to 35 dynes/cm²; (2) an oil solvency greater than water without being oleophilic; (3) a solubility in water of less than about 10%; (4) a viscosity less than water under normal washing conditions; (5) a pH from about 6.0 to about 8.0; (6) a vapor pressure less than the vapor pressure of water; and (7) a flash point of greater than or equal to 145 °C.

In addition to the arguments set forth supra for claim 79, the Login et al. references do not disclose specific chemical properties of any compounds with respect to oil solvency, vapor pressure, or flash point. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 84 as being anticipated by the Login et al. references.

(iv) Claim 85:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 85 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 is a hydrofluoroether.

In addition to the arguments set forth supra for claim 79, the Login et al. references do not disclose any fluorinated compound, including a hydrofluoroether, as being suitable for Applicants' working fluid. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 85 as being anticipated by the Login et al. references.

(iv) Claims 88:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 88 is an independent claim which requires, among other limitations, at least a working fluid comprising a fluorine-containing compound having the structure $(CF_3(CF_2)_n)_3N$, where n is an integer from 4 to 20.

The Login et al. references do not disclose the aforementioned fluorine-containing compound, let alone its inclusion in a wash liquor composition. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 88 as being anticipated by the Login et al. references.

(b) The Examiner has not met his burden with regard to establishing that De Jager (U.S. Patent No. 5269958) discloses, either expressly or inherently, each and every limitation of the claims.

Though the De Jager reference was cited on PTO Form 892 that was provided with the Official Action dated July 18, 2005, the Examiner failed to particularly point out how this reference disclosed each and every limitation of claim 79. Consequently, the Examiner failed to meet his burden of establishing the prima facie case of anticipation of claims 79-81 and 83-88 by the De Jager reference. Thus, for this reason and the Appellants' arguments put forth infra, Applicants respectfully request that the Board reverse the Examiner's rejection of claims 79-81 and 83-88 as being anticipated by De Jager

(i) Claims 79 and 80:

For the purposes of this ground of rejection, these claims stand or fall together. Arguments as to the patentability of these claims are presented herein, wherein Applicants have selected claim 79 as an exemplary claim for the group.

Claim 79 is an independent claim. Claim 79 recites a wash liquor composition comprising a working fluid being substantially non-reactive, non-aqueous, non-oleophilic and apolar, and having a KB value less than or equal to 30 and at least one washing additive comprising a fragrance. Claim 79 further recites that the aforementioned components are pre-mixed prior to use in laundering.

(1) The Asserted Art:

The De Jager reference is directed to self-pressurized aerosol spot dry cleaning compositions. (4:43-45). The reference discloses such compositions to include a 34-35% water-soluble propellant in the form of dimethyl ether; water; a cosolvent; a particulate absorbent; dimethoxymethane and minor amounts of additives such as perfumes. (4:4-39). The cosolvent is disclosed to include lower alcohols containing 1 to about 4 carbon atoms, lower alkyl glycols

containing from 2 to about 6 carbon atoms, lower alkyl ketones, and lower alkyl glycol ethers from 3 to about 8 carbon atoms. (5: 40-51). Dimethoxymethane is disclosed as a polar solvent suitable to dissolve oil-based stains. (6:17-23). The De Jager reference discloses broadly fluorine-containing compounds such as difluoromethane and monochlorodifluoromethane as suitable cleaning solvents for removing fat and grease stains. (1:55-59).

(2) De Jager does not disclose a working fluid, as defined by Applicants' specification and claims.

Applicants define a “working fluid” with clear and unequivocal language: a working fluid is “a fluid that possesses no deterative properties,” whereas a compound or fluid that has “deterative action” is one “that is required to remove particulates, film soils, and stains or that assist in the removal of particulates, film soils, and stains.” *See* specification at page 11, lines 2-4, 8-10, and 13-18. Applicants unambiguously define “substantially non-reactive” as it modifies a working fluid and components thereof to mean “a non-solvent, non-deterative fluid that under ordinary or normal washing conditions, *e.g.*, at pressures of -1 to 50 atmospheres and temperatures of from about 10° to about 45° C, does not appreciably react with fibers of the fabric load being cleaned, the stains and soils on the fabric load, or the washing additives combined with the component to form the wash liquor.” *See* Specification at page 1, lines 9-15. Furthermore, Applicants characterize cleaning solvents as being different from the working fluid of their invention: “a solvent that is different from the IWF [working fluid] in that its sole purpose is to provide deterative properties not met by the performance enhancers will hereinafter be referred to as a co-solvent.” *Id.* at page 11, lines 13-15. A person of ordinary skill in the field would readily understand that this definition indicates that a non-reactive working fluid does not react with fabric fibers nor with stains and soils on the fabric. Therefore, a non-reactive working fluid, by definition, cannot perform any process that disrupts the chemical interaction between stains and soils on fabric fibers.

In De Jager, the biodegradable fabric softener is disclosed as a cationic quaternary ammonium compound (2:30-67) and a “liquid carrier” is disclosed as being selected from the group consisting of water, C₁-C₄ monohydric alcohols, C₂-C₆ polyhydric alcohols, liquid polyalkylene glycols, and mixtures thereof. (3:12-16). The disclosed perfume compounds cannot simultaneously qualify as the working fluid of claim 79 because the perfume compounds of Severn et al., being cationic esters of an alcohol, are polar and water-soluble. The disclosed liquid carrier cannot qualify as a working fluid because it is either aqueous, water-soluble, or polar. At best, De Jager discloses a liquid carrier to include water, an alcohol, and a glycol, which would represent the co-solvent of Applicants’ specification. Thus, the De Jager reference fails to disclose or suggest the working fluid of claim 79. Applicants respectfully request that the Board reverse the Examiner’s rejection of these claims as being anticipated by De Jager

(ii) Claim 81:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 81 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 comprises a fluorine-containing compound selected from the group consisting of perfluorocarbons, hydrofluoroethers, fluorinated hydrocarbons, and fluoroinerts.

In addition to the arguments set forth *supra* for claims 79 and 80, De Jager does not disclose a fluorine-containing compound, let alone perfluorocarbons, hydrofluoroethers, fluorinated hydrocarbons, and fluoroinerts. Applicants respectfully request that the Board reverse the Examiner’s rejection of claim 81 as being anticipated by De Jager

(iii) Claim 83:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 83 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 comprises a liquid.

In addition to the arguments set forth supra for claim 79, De Jager does not disclose a liquid working fluid. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 83 as being anticipated by De Jager

(iv) Claim 84:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 84 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 possesses specific chemical properties, including: (1) a surface tension of less than or equal to 35 dynes/cm²; (2) an oil solvency greater than water without being oleophilic; (3) a solubility in water of less than about 10%; (4) a viscosity less than water under normal washing conditions; (5) a pH from about 6.0 to about 8.0; (6) a vapor pressure less than the vapor pressure of water; and (7) a flash point of greater than of equal to 145 °C.

In addition to the arguments set forth supra for claim 79, De Jager does not disclose specific chemical properties of any compounds with respect to surface tension, oil solvency, vapor pressure, or flash point. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 84 as being anticipated by De Jager

(iv) Claim 85:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 85 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 is a hydrofluoroether.

In addition to the arguments set forth supra for claim 79, De Jager does not disclose any fluorinated compound, including a hydrofluoroether. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 85 as being anticipated by De Jager

(iv) Claims 86 and 87:

For the purposes of this ground of rejection, these claims stand or fall together. Arguments as to the patentability of these claims are presented herein, wherein Applicants have selected claim 86 as an exemplary claim for the group. These claims require, among other limitations, at least a working fluid, a fragrance and two different types of washing additives. The first washing additive is selected from the group consisting of a surfactant, enzyme, and bleach. The second washing additive is selected from the group consisting of ozone, an ultraviolet light absorber, and deodorizer.

In addition to the arguments set forth supra for claim 79 with regard to the limitation drawn to working fluid, De Jager does not disclose that washing additives comprise ozone, an ultraviolet light absorber, or a deodorizer. Applicants respectfully request that the Board reverse the Examiner's rejection of this group of claims as being anticipated by De Jager

(iv) Claim 88:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 88 is an independent claim which requires, among other limitations, at least a

working fluid comprising a fluorine-containing compound having the structure $(CF_3(CF_2)_n)_3N$, where n is an integer from 4 to 20.

The De Jager reference does not disclose the aforementioned fluorine-containing compound, let alone its inclusion in a wash liquor composition. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 88 as being anticipated by the De Jager reference.

(e) The Examiner has not met his burden with regard to establishing that Nakamura et al. (U.S. Patent Nos. 5427858 and 5505985) disclose, either expressly or inherently, each and every limitation of the claims.

The two asserted Nakamura et al. references are based upon the same specification; therefore, the Nakamura et al. references will be cited jointly for disclosure of the relevant prior art with respect to the limitations of the claims under appeal.

(i) Claims 79, 86, and 87:

For the purposes of this ground of rejection, these independent claims stand or fall together. Arguments as to the patentability of these claims are presented herein, wherein Applicants have selected claim 79 as an exemplary claim for the group.

Claim 79 is an independent claim. Claim 79 recites a wash liquor composition comprising a working fluid being substantially non-reactive, non-aqueous, non-oleophilic and apolar, and having a KB value less than or equal to 30 and at least one washing additive comprising a fragrance. Claim 79 further recites that the aforementioned components are pre-mixed prior to use in laundering.

(1) The Asserted Art:

The Nakamura et al. references are directed to methods of providing a effective protection method for film-coating an organic electroluminescence device, wherein the final product displays a long structural life. (1:25-67 and 2:1-23). The references disclose using

fluorine-containing compounds as components of film deposition processes to provide a protective film layer onto the devices. (8:45-54) The references disclose that the protective layer is formed according to a copolymerization process that uses peroxide compounds to serve as radical initiator compounds in the copolymerization reaction. (8:4-36).

(2) The Nakamura et al. references disclose neither a working fluid nor a fragrance, as defined by Applicants' specification and claims.

Applicants define a “working fluid” with clear and unequivocal language: a working fluid is “a fluid that possesses no deterative properties,” whereas a compound or fluid that has “deterative action” is one “that is required to remove particulates, film soils, and stains or that assist in the removal of particulates, film soils, and stains.” See Specification at page 11, lines 2-4, 8-10, and 13-18. Applicants unambiguously define “substantially non-reactive” as it modifies a working fluid and components thereof to mean “a non-solvent, non-deterative fluid that under ordinary or normal washing conditions, *e.g.*, at pressures of -1 to 50 atmospheres and temperatures of from about 10° to about 45° C, does not appreciably react with fibers of the fabric load being cleaned, the stains and soils on the fabric load, or the washing additives combined with the component to form the wash liquor.” See Specification at page 1, lines 9-15. Furthermore, Applicants characterize cleaning solvents as being different from the working fluid of their invention: “a solvent that is different from the IWF [working fluid] in that its sole purpose is to provide deterative properties not met by the performance enhancers will hereinafter be referred to as a co-solvent.” Id. at page 11, lines 13-15. A person of ordinary skill in the field would readily understand that this definition indicates that a non-reactive working fluid does not react with fabric fibers nor with stains and soils on the fabric. Therefore, a non-reactive working fluid, by definition, cannot perform any process that disrupts the chemical interaction between stains and soils on fabric fibers.

In the Nakamura et al. references, the halogenated compounds are chemically assembled as copolymers and used to form a dried, permanent, protective film coating on surfaces. By contrast, the working fluid of Applicants' invention only transiently contact the surfaces of fabric materials during the washing cycle. The working fluid of the Applicants' invention does not establish a film coating on the fabric materials. Thus, the fluorinated compounds of the Nakamura et al. references do not qualify as a working fluid. Thus, the Nakamura et al. references fail to disclose or suggest the working fluid of claim 79.

Furthermore, the Nakamura et al. references do not disclose a reference to a fragrance nor recite any specific compounds that can serve as a fragrance, particularly as part of a wash liquor composition. Thus, the Nakamura et al. references fail to disclose or suggest the fragrance of claim 79.

Applicants respectfully request that the Board reverse the Examiner's rejection of this group of claims as being anticipated by the Nakamura et al. references.

(ii) Claim 80:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 80 depends from claim 79 and contains all the limitations of claim 79. Claim 80 further recites that the wash liquor composition comprises at least one co-solvent selected from the group consisting of water, alcohol, ether, glycol, ester, ketone, and aldehyde, and wherein the mixture is sufficiently stable for a fabric washing application.

In addition to the arguments set forth *supra* for claim 79, the Nakamura et al. references do not disclose a wash liquor composition further comprising at least one co-solvent selected from the group consisting of water, alcohol, ether, glycol, ester, ketone, and aldehyde, wherein the mixture is sufficiently stable for a fabric washing application. Applicants respectfully

request that the Board reverse the Examiner's rejection of claim 80 as being anticipated by the Nakamura et al. references.

(ii) Claim 81:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 81 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 comprises a fluorine-containing compound selected from the group consisting of perfluorocarbons, hydrofluoroethers, fluorinated hydrocarbons, and fluoroinerts.

In addition to the arguments set forth *supra* for claim 79, the Nakamura et al. references do not disclose a fluorine-containing compound as being suitable for use as a working fluid, let alone perfluorocarbons, hydrofluoroethers, fluorinated hydrocarbons, and fluoroinerts that act as a working fluid. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 81 as being anticipated by the Nakamura et al. references.

(iii) Claim 83:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 83 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 comprises a liquid.

In addition to the arguments set forth supra for claim 79, the Nakamura et al. references do not disclose a liquid working fluid. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 83 as being anticipated by the Nakamura et al. references.

(iv) Claim 84:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 84 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 possesses specific chemical properties, including: (1) a surface tension of less than or equal to 35 dynes/cm²; (2) an oil solvency greater than water without being oleophilic; (3) a solubility in water of less than about 10%; (4) a viscosity less than water under normal washing conditions; (5) a pH from about 6.0 to about 8.0; (6) a vapor pressure less than the vapor pressure of water; and (7) a flash point of greater than of equal to 145 °C.

In addition to the arguments set forth supra for claim 79, the Nakamura et al. references do not disclose specific chemical properties of any compounds with respect to oil solvency, vapor pressure, or flash point. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 84 as being anticipated by the Nakamura et al. references.

(iv) Claim 85:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 85 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 is a hydrofluoroether.

In addition to the arguments set forth supra for claim 79, the Nakamura et al. references do not disclose any fluorinated compound, including a hydrofluoroether, as being suitable for Applicants' working fluid. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 85 as being anticipated by the Nakamura et al. references.

(iv) Claims 88:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 88 is an independent claim which requires, among other limitations, at least a working fluid comprising a fluorine-containing compound having the structure $(CF_3(CF_2)_n)_3N$, where n is an integer from 4 to 20.

The Nakamura et al. references do not disclose the aforementioned fluorine-containing compound, let alone its inclusion in a wash liquor composition. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 88 as being anticipated by the Nakamura et al. references.

(f) The Examiner has not met his burden with regard to establishing that Balliett (U.S. Patent No. 5676005) discloses, either expressly or inherently, each and every limitation of the claims.

(i) Claims 79, 81, and 85-87:

For the purposes of this ground of rejection, these claims stand or fall together. Arguments as to the patentability of these claims are presented herein, wherein Applicants have selected claim 79 as an exemplary claim for the group

Claim 79 is an independent claim. Claim 79 recites a wash liquor composition comprising a working fluid being substantially non-reactive, non-aqueous, non-oleophilic and apolar, and having a KB value less than or equal to 30 and at least one washing additive comprising a fragrance. Claim 79 further recites that the aforementioned components are pre-mixed prior to use in laundering.

(1) The Asserted Art:

The Balliett reference is directed to methods of drawing wire using a lubricant comprising perfluorocarbon compounds, including aliphatic perfluorocarbon compounds having

the general formula C_nF_{2n+2} , perfluoromorpholines having the general formula $C_nF_{2n+1}ON$, perfluoroamines, highly fluorinated amines, and perfluoroethers. (Abstract). The reference disclose using fluorine-containing compounds as components of film deposition processes to provide a protective film layer onto the devices. (8:45-54) The reference discloses that the fluorine-containing compounds have a viscosity in the range of 0.4 centistokes to 40 centistokes at ambient temperature, a boiling point in the range of about 30 C to about 214 C, and a vapor pressure at room temperature of 3 torr. (3:50-67 to 4:1-2). In the Balliett reference, the recited fluorine-containing compounds are described as being originally developed for use as heat-transfer fluids and that they are currently used in heat-transfer, vapor phase soldering, and electronic testing applications. (3:8-11). The Balliett reference does not disclose or suggest inclusion of these fluorine-containing compounds in wash liquor compositions.

(2) The Balliett reference discloses neither a working fluid nor a fragrance, as defined by Applicants' specification and claims.

Applicants define a "working fluid" with clear and unequivocal language: a working fluid is "a fluid that possesses no deterative properties," whereas a compound or fluid that has "deterative action" is one "that is required to remove particulates, film soils, and stains or that assist in the removal of particulates, film soils, and stains." See Specification at page 11, lines 2-4, 8-10, and 13-18. Applicants unambiguously define "substantially non-reactive" as it modifies a working fluid and components thereof to mean "a non-solvent, non-deterative fluid that under ordinary or normal washing conditions, *e.g.*, at pressures of -1 to 50 atmospheres and temperatures of from about 10° to about 45° C, does not appreciably react with fibers of the fabric load being cleaned, the stains and soils on the fabric load, or the washing additives combined with the component to form the wash liquor." See Specification at page 1, lines 9-15. Furthermore, Applicants characterize cleaning solvents as being different from the working fluid

of their invention: “a solvent that is different from the IWF [working fluid] in that its sole purpose is to provide deterative properties not met by the performance enhancers will hereinafter be referred to as a co-solvent.” Id. at page 11, lines 13-15. A person of ordinary skill in the field would readily understand that this definition indicates that a non-reactive working fluid does not react with fabric fibers nor with stains and soils on the fabric. Therefore, a non-reactive working fluid, by definition, cannot perform any process that disrupts the chemical interaction between stains and soils on fabric fibers.

The Balliett reference describes the fluorine-containing compounds as having utility as a lubricant in wire-drawing processes. One of ordinary skill in the art would not recognize that that the chemical properties of the fluorine-containing compounds of Balliett that render them as good lubricants in wire-drawing processes would necessarily render them as suitable working fluids for wash liquor compositions. Thus, the Balliett reference fails to disclose or suggest the working fluid of claims 79, 81, 86, and 87.

Furthermore, the Balliett reference does not disclose a fragrance nor recite any specific compounds that can serve as a fragrance, particularly as part of a wash liquor composition.

Applicants respectfully request that the Board reverse the Examiner’s rejection of claims 79, 81, 86, and 87 as being anticipated by the Balliett reference.

(ii) Claim 80:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 80 depends from claim 79 and contains all the limitations of claim 79. Claim 80 further recites that the wash liquor composition comprises at least one co-solvent selected from the group consisting of water, alcohol, ether, glycol, ester, ketone, and aldehyde, and wherein the mixture is sufficiently stable for a fabric washing application.

In addition to the arguments set forth *supra* for claim 79, the Balliett reference does not disclose a wash liquor composition further comprising at least one co-solvent selected from the group consisting of water, alcohol, ether, glycol, ester, ketone, and aldehyde, wherein the mixture is sufficiently stable for a fabric washing application. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 80 as being anticipated by the Balliett reference.

(iii) Claim 83:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 83 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 comprises a liquid.

In addition to the arguments set forth supra for claims 79, the Balliett reference does not disclose a liquid working fluid. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 83 as being anticipated by the Balliett reference.

(iv) Claim 84:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 84 depends from claim 79 and contains all the limitations of claim 79. This claim recites that the working fluid of claim 79 possesses specific chemical properties, including: (1) a surface tension of less than or equal to 35 dynes/cm²; (2) an oil solvency greater than water without being oleophilic; (3) a solubility in water of less than about 10%; (4) a viscosity less than water under normal washing conditions; (5) a pH from about 6.0 to about 8.0; (6) a vapor pressure less than the vapor pressure of water; and (7) a flash point of greater than of equal to 145 °C.

In addition to the arguments set forth supra for claim 79, the Balliett reference does not disclose specific chemical properties of any compounds with respect to surface tension, oil solvency, solubility in water, pH, or flash point. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 84 as being anticipated by the Balliett reference.

(iv) Claims 88:

For the purposes of this ground of rejection, this claim does not stand or fall together with any other claim under appeal. Arguments as to the patentability of this claim are presented herein. Claim 88 is an independent claim which requires, among other limitations, at least a working fluid comprising a fluorine-containing compound having the structure $(CF_3(CF_2)_n)_3N$, where n is an integer from 4 to 20.

The Balliett reference does not disclose the aforementioned fluorine-containing compound, let alone its inclusion in a wash liquor composition. Applicants respectfully request that the Board reverse the Examiner's rejection of claim 88 as being anticipated by the Balliett reference.

(g) The Examiner has not met his burden with regard to establishing that any of the asserted prior art references of sections (b) through (f) herein discloses inherently a working fluid being substantially non-reactive, non-aqueous, non-oleophilic, and apolar and having a KB value less than or equal to 30.

For each asserted reference, the Examiner stated without any technical explanation or reasoning that the applicant's claimed chemical properties of the working fluid being non-reactive, non-aqueous, non-oleophilic, and apolar and having a KB value less than 30 would inherent to the compounds of the asserted reference.

Applicants assert that it is improper to shift the burden to the Applicants to demonstrate that a prior art reference does not inherently possess a chemical property where the Examiner has not even made the effort to provide at least one technical explanation or reason in support of his statement that the prior art compound possesses such a chemical property. Applicants

respectfully request that the Board reverse all rejections of claims 79-81 and 83-88, where the question of anticipation is turns solely upon whether Applicants' limitation of working fluid is found in the prior art according to the principle of anticipation by inherency.

(h) Conclusion

Applicants maintain that the prosecution of the instant application has repeatedly reached impasses because the Examiner does not understand or refuses to acknowledge that the kernel of the invention is the use of a non-aqueous bulk fluid whose main purpose is to serve as a carrier to deliver mechanical energy, chemical energy (in the form of an additive), and/or thermal energy to the fabric load without the bulk fluid chemically acting on the load. That breakthrough concept was such a significant departure from the historical approach of using a solvent as a bulk fluid that it required the coining of a new lexicon (termed "working fluid") to describe and claim it. The Examiner improperly rejects that lexicography based on how the terms were used before the invention was made. But that is the point. The fact that the prior terminology is deficient to describe the invention may itself be evidence of the novelty of the invention. By challenging the lexicon, the Examiner is side-stepping the direct application of the lexicon to the claims. Were he to concede that the claimed invention involves use a special class of quasi-inert bulk fluids that the Applicants have termed as "working fluids," he would be forced to fully understand the various characteristics that would identify members of that class of quasi-inert chemicals and use that knowledge to review prior art chemicals used to clean fabric to determine if they are in that special class.

Applicants maintain that the Examiner has not met his initial burden of establishing a prima facie case of anticipation, either expressly or inherently, for any of the references asserted in the Official Action of July 18, 2005. See In re King, 801 F.2d 1324, 1327 (CCPA 1986) and In re Wilder, 429 F.2d 447, 450 (CCPA 1970). Applicants maintain that it is improper to

prematurely shift the burden to the Applicants to demonstrate that a prior art reference does not inherently possess a chemical property where the Examiner has not even met this initial burden of establishing that the prior art reference inherently anticipates the Applicants' invention as claimed. See In re King, 801 F.2d at 1327; In re Wilder, 429 F.2d at 450.


Applicants acknowledge that the Examiner has conducted a diligent review of the prior art for the past two years to ascertain whether the Applicants' claimed compositions have been disclosed previously. Absent the Examiner's showing of any prior art that either anticipates or renders obvious Applicants' claims, Applicants are entitled to a patent grant for the invention as claimed. See In re Grabiak, 769 F.2d 729, 733 (Fed. Cir. 1985).

For the reasons provided supra, Applicants respectfully submit that the outstanding rejections should be reversed, and that the application is in condition for allowance.

Respectfully submitted,

Dated: January 17, 2006

By:


Daniel W. Celander, Ph.D. Reg. No. 52,710

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VIII. CLAIMS APPENDIX

79. (Previously presented) A wash liquor composition for use in laundering a fabric load, comprising:

(a) a substantially non-reactive, non-aqueous, non-oleophilic, apolar working fluid that has a KB value less than or equal to 30;

(b) at least one washing additive comprising a fragrance; and

(c) wherein the at least one washing additive and working fluid are mixed prior to use in laundering.

80. (Previously presented) The wash liquor composition of claim 79, further comprising: at least one co-solvent selected from the group consisting of water, alcohol, ether, glycol, ester, ketone, and aldehyde, and wherein the mixture is sufficiently stable for a fabric washing application.

81. (Previously presented) The wash liquor composition of claim 79, wherein the working fluid comprises a fluorine-containing compound selected from the group consisting of perfluorocarbons, hydrofluoroethers, fluorinated hydrocarbons, and fluoroinerts.

83. (Previously presented) The wash liquor composition of claim 79, wherein the working fluid is a liquid.

84. (Previously presented) The wash liquor composition of claim 79,

(d) wherein the working fluid has a surface tension of less than or equal to 35 dynes/cm²;

(e) wherein the working fluid has an oil solvency greater than water without being oleophilic;

(f) wherein the working fluid has a solubility in water of less than about 10%;

(g) wherein the working fluid has a viscosity less than water under normal washing conditions;

(h) wherein the working fluid has a pH from about 6.0 to about 8.0;

(i) wherein the working fluid has a vapor pressure less than the vapor pressure of water; and

(j) wherein the working fluid has a flash point of greater than or equal to 145°C.

85. (Previously presented) The wash liquor composition of claim 79, wherein the working fluid is hydrofluoroether.

86. (Previously presented) A wash liquor composition for use in laundering a fabric load, comprising:

(a) a non-reactive, non-aqueous, non-oleophilic, apolar working fluid that has a KB value less than or equal to 30;

(b) a fragrance;

(c) at least one first washing additive selected from the group consisting of: a surfactant, enzyme, and bleach; and

(d) at least one second washing additive selected from the group consisting of: ozone, an ultraviolet light absorber, and deodorizer.

87. (Previously presented) A wash liquor composition for use in laundering a fabric load, comprising:

(a) a non-reactive, non-aqueous, non-oleophilic, apolar working fluid that has a KB value less than or equal to 30;

(b) a fragrance;

(c) at least one first washing additive selected from the group consisting of: a surfactant, enzyme, and bleach;

(d) at least one second washing additive selected from the group consisting of: ozone, an ultraviolet light absorber, and deodorizer;

(e) at least one co-solvent selected from the group consisting of water, alcohol, ether, glycol, ester, ketone, and aldehyde, and wherein the mixture is sufficiently stable for a fabric washing application; and

(f) wherein the working fluid, fragrance, at least one first washing additive, at least one second washing additive; and the at least one co-solvent are mixed prior to use in laundering.

88. (Previously presented) A wash liquor composition for use in laundering a fabric load, comprising:

(a) a substantially non-reactive, non-aqueous, non-oleophilic, apolar working fluid that has a KB value less than or equal to 30;

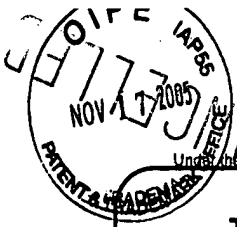
(b) at least one washing additive comprising a fragrance;

(c) wherein the at least one washing additive and working fluid are mixed prior to use in laundering.

(d) wherein the working fluid comprises a fluorine-containing compound selected from the group consisting of perfluorocarbons, hydrofluoroethers, fluorinated hydrocarbons, and fluoroinerts; and

(e) wherein the fluorine-containing compound is $(\text{CF}_3(\text{CF}_2)_n)_3\text{N}$, where n is an integer from 4 to 20.

IX. EVIDENCE APPENDIX



AT

IFW



PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/027,160
	Filing Date	December 20, 2001
	First Named Inventor	Estes
	Art Unit	1751
	Examiner Name	Gregory E. Webb
	Attorney Docket Number	09793070-0439
Total Number of Pages in This Submission		5

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Interview Summary Pursuant to 37 C.F.R. 1.133, Applicant Initiated Interview Request Form, and Return Receipt Postcard
Remarks The Commissioner is hereby authorized to charge any deficiency or credit any overpayments in a required fee to Deposit Account No. 19-3140.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Sonnenschein Nath & Rosenthal LLP	
Signature		
Printed name	Daniel W. Celander	
Date	Nov-15, 2005	Reg. No. 52,710

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:		
Signature		
Typed or printed name	Daniel W. Celander	Date Nov. 15, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Nov. 15, 2005
Date of Mailing

Daniel W. Celander, Ph.D.
Name of Applicant, Assignee or Registered Representative

Daniel W. Celander
Signature

Nov. 15, 2005
Date of Signature



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: *Estes et al.*)
Serial No.: 10/027,160)
Filing Date: December 20, 2001) Examiner: Gregory E. Webb
For: NON-AQUEOUS WASHING)
APPARATUS AND METHOD) Group Art Unit No.: 1751

INTERVIEW SUMMARY PURSUANT TO 37 C.F.R. 1.133

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Applicants and Applicants' Representative thank Examiner Webb for scheduling the interview held on October 27, 2005. Applicants appreciated the opportunity to discuss limitations of the pending claims as they relate to the novelty of the present invention. Applicants Representative appreciated the opportunity to meet and confer with the Examiner concerning the rejections of the pending claims in the Official Action dated July 18, 2005.

Attached to this communication, Applicants have provided PTOL-413A, entitled Applicant Initiated Interview Request Form. Pursuant to 37 C.F.R. 1.133, Applicants provide the following summary of the interview conducted in Examiner Webb's office on October 27, 2005 at 10:45 a.m.

Those present at the interview included:

- (1) Tremitchell Wright, Applicant;
- (2) Joel Luckman, Patent Portfolio Manager, Whirlpool Patents Co. (Assignee);
- (3) Daniel W. Celander, Ph.D. (Reg. No. 52,710), Applicants' Representative; and
- (4) Gregory E. Webb, Primary Examiner.

The following issues were discussed during the interview:

(1) Novelty of "working fluid" limitation of claims 79-81 and 83-88:

Mr. Wright discussed the nature and novelty of the invention, particularly as drawn to the limitation "working fluid" that is found in all pending claims. In distinguishing the claimed invention from the prior art, Mr. Wright explained that prior art wash liquor compositions contain bulk fluids that possess substantial cleaning properties, particularly as manifested by fluids that display high solvation properties and high KB values (e.g., KB value of 90). Mr. Wright further explained that the instant invention was drawn to a wash liquor composition having a working fluid that displays substantially no cleaning properties, such as those fluids that display low solvation properties and low KB values (e.g., KB value less than 30).

In this regard, the Examiner understood and agreed with Mr. Wright that the working fluid limitation was directed to a fluid having substantially no deterative properties and that the working fluid was a bulk fluid that did not behave as a cleaning solvent.

(2) Rejection of claims 79-81 and 83-88 under 35 U.S.C. § 112, ¶1 (enablement):

Applicants' Representative discussed the rejection of the pending claims under section 112, ¶1 for lacking enablement in the Official Action dated July 18, 2005. Applicants' Representative pointed out that page 19 of the specification, among other places, provides one of ordinary skill in the art with the requisite teachings and tools to ascertain how to make and use the invention as claimed, as well as to define the properties of those chemicals that meet the limitations of the claims.

In this regard, agreement was reached that the specification was an enabling disclosure for the invention as claimed.

(3) Rejection of claims 79-81 and 83-88 under 35 U.S.C. § 102:

Applicants' Representative discussed the rejections of the pending claims under section 102 in view of 22 asserted references in the Official Action dated July 18, 2005. Applicants' Representative explained that 15 of the 22 asserted references were not prior art because the

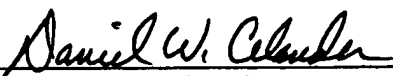
references did not predate the earliest effective filing date accorded the instant application.

Applicants' Representative argued that none of the remaining 7 prior art references teaches the limitation of "working fluid" as explained by Applicants, or in the alternative, discloses all the limitations of the pending claims, as required for an anticipatory reference.

In this regard, agreement was reached that none of the asserted references rendered the pending claims unpatentable under 35 U.S.C. § 102.

Respectfully submitted,

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Sears Tower
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Direct telephone calls to:



Daniel W. Celander, Ph.D.
Reg. No. 52,710

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Applicant Initiated Interview Request Form

Application No.: 10/027,160 First Named Applicant: ESTES
Examiner: Gregory Webb Art Unit: 1751 Status of Application: Pending Non-Final
Office Action

Tentative Participants:

(1) Tremitchell Wright (2) Joel Luckman
(3) Daniel Celander (4) Gregory Webb

Proposed Date of Interview: 10-26-05 Proposed Time: 11 AM (AM/PM)

Type of Interview Requested:

(1) ☐ Telephonic (2) ☒ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO
If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rej. [102]</u>	<u>79-81;83-88</u>	<u>all pending</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) <u>Rej. [112(1)]</u>	<u>79-81;83-88</u>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) <u>"working fluid"</u>	<u>79-81;83-88</u>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Continuation Sheet Attached					

Brief Description of Arguments to be Presented:

Applicants will discuss novelty of invention, as captured by claim language.

Applicants' Representative to point out portions of specification that provide for an enabling disclosure and to point out that 15 of 22 asserted references are not prior art, among other things.

An interview was conducted on the above-identified application on 10-27-05; 10:45 A.M.

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Daniel W. Celander (11-15-05)
Applicant/Applicant's Representative Signature

Examiner/SPE Signature

Daniel W. Celander, Ph.D.
Typed/Printed Name of Applicant or Representative

52,710
Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

X. RELATED PROCEEDINGS APPENDIX

Not applicable, as there are no proceedings before a Court or the Board which are related to the pending appeal.